

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ERICA HINES,)	
)	
Plaintiff,)	
)	
v.)	CIV-21-128-R
)	
PORTFOLIO RECOVERY)	
ASSOCIATES,)	
)	
Defendant.)	

ORDER

Before the Court is Plaintiff's Motion to Compel Discovery (Doc. No. 26). Defendant responded in opposition to the motion and Plaintiff filed a reply in support of her position. (Doc. Nos. 29 and 33). For the reasons set forth herein, the Motion to Compel is granted, however, Plaintiff's request for attorneys' fees in conjunction with the motion is denied.

By the motion Plaintiff seeks to compel Defendant to respond to discovery requests issued on November 17, 2021. Plaintiff represents that, despite granting Defendant numerous extensions of time in which to respond, Defendant failed to respond in any manner by the final agreed upon deadline, January 20, 2022.¹ Although counsel for the parties communicated about deadlines and a protective order, the communications never made clear that Defendant's production was conditioned on the Court entering a protective order, the terms of which the parties were negotiating.² Additionally, the Court ordered

¹ Plaintiff subsequently set a February 17, 2022 deadline for Defendant to respond to avoid the filing of a motion to compel.

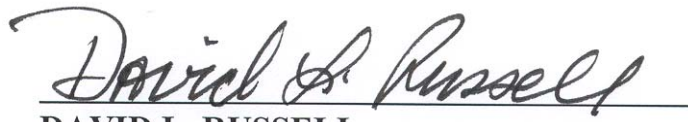
² On March 3, 2020, the Court granted Defendant's Unopposed Motion for Protective Order. (Doc. No. 31).

Plaintiff to conduct the required Rule 37.1 conference with defense counsel. Ideally the parties would have spoken by telephone about the issues preventing Defendant from making disclosures, to include the absence of a protective order. It is unclear, however, from Plaintiff's "Certificate of Conference" whether counsel addressed the issue or if Plaintiff's counsel merely asked defense counsel if she objected to the motion to compel. Regardless, the conditions now appear ripe for Defendant to produce the documents originally requested on November 17, 2021. Defendant is hereby ordered to produce its responses within twenty-four hours of entry of this Order.

The Court finds it difficult to believe that if Plaintiff's counsel had initiated the telephone conference required by LCvR 37.1 prior to the filing of the February 18, 2022 Motion to Compel the attorneys would not have clarified the issues, specifically that defense counsel was awaiting a protective order. Counsel's communications clearly indicate that a protective order was necessary for at least some of Defendant's production. Accordingly, the Court denies Plaintiff's request for fees.

For the reasons set forth herein, the Motion to Compel is **GRANTED IN PART**.

IT IS SO ORDERED this 9th day of March 2022.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE